



महाराष्ट्र MAHARASHTRA 2015 X 005715

१०/०२/२०१६
अनीश्वर ठोंगे

विशेष चिंतामणी इवमहा
२५०० इनिवार के, मुंबई के
शिखरी

शुद्धेश जालकर मने अश्विन सुनिवरी विप्लव
मुंबई

विकत घेणान्याचो २०१६

१-८ FEB 2016

प्रमाणित कृत्यान्वित सिद्धी के
नियमानुसार जारी करिष्ये

**AWARD
IN ARBITRATION**
'HOUZZ.CO.IN'

HOUZZ INC.
(Delaware Corporation)
444, Ramona Street, 2nd Floor, Palo Alto
CA 94301.

THE COMPLAINANT

AND

RAVI SHAN
Ravi Group
88/F, New World Centre
Wan Chai, Hong Kong. 10008

**THE RESPONDENT /
THE REGISTRANT**

**IN THE MATTER OF DISPUTED DOMAIN NAME: - 'HOUZZ.CO.IN'
BEFORE MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.**

SOLE ARBITRATOR

**DELIVERED ON THIS 9th DAY OF FEBRUARY TWO THOUSAND
SIXTEEN AT PUNE, INDIA.**

SUMMARISED INFORMATION ABOUT THE DISPUTE: -

**01. Names and addresses
Of the Complainant: -**

HOUZZ INC.
(Delaware Corporation)
444, Ramona Street
2nd Floor, Palo Alto
CA 94301.

Through its authorized
representative

Anand & Anand
First Channel, Plot NO.17A
Sector 16A, Film City, Noida.

**02. Name and address of
The Respondent: -**

RAVI SHAN
Ravi Group.
88/F, New World Centre,
Wan Chai, Hong Kong. 10008

03. Calendar of Major events:

Sr. No.	Particulars	Date (Communications in electronic mode)
01	Arbitration case referred to me & acceptance given by me	23.12.2015
02	NIXI requested for directions i.r.o. servicing of complaint as the address registered with NIXI of the Registrant was wrong & order issued to send soft copy on registered email of the Registrant	30.12.2015
03	Hard copy of complaint received	31.12.2015
04	Notice of Arbitration issued with the instructions to file reply latest by 30.01.2016	20.01.2016
05	Complainant requested to pass ex-parte award	03.02.2016
06	Registrant directed to file his say, if any, latest	03.02.2016

	by 05.02.2016	
04	Notice of closure of arbitration	06.02.2016
06	Award passed	09.02.2016

I] PARTIES TO THE DISPUTE: -

1. **Houzz Inc.**, (Dlaware Corporation), having its principal place of business at 444, Ramona Street, 2nd Floor, Palo Alto, CA 94301, USA. (**The Complainant**).

2. **Ravi Shan, Ravi Group, 88/F, New World Centre, Wan chai, Hong Kong, 10008 HK** is the **Respondent**.

3. **Authorised representative of the Complainant is Anand & Anand, First Channel, Plot NO.17A, Sector 16A, Fiml city, Noida. India.**

II] PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:

1. Disputed domain name is www.houzz.co.in.
2. Date of registration is 02.02.2014
3. Registrar is d.b.a.inregistrar.com, Adarsh Place, 118, Old Hanuman Lane, Kalbadevi Road, Mumbai. 400002. India.

III] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -

01. In accordance with INDRP read with INDRP Rules of Procedure, notice of arbitration was sent to the Respondent on 20.01.2016 with the instructions to file his reply / say latest by 30th January 2016.
02. The Registrant / Respondent did not file any reply / say within the stipulated period.
03. The Registrant was directed to file his say / reply, if any, latest by 05.02.2016 as last opportunity.
04. The Registrant did not file any reply / say even within the extended period.
05. Notice of Closure of Arbitration proceedings was issued on 06.02.2016.
06. No personal hearing was requested / granted / held.

III] SUMMARY OF THE COMPLAINT OF THE COMPLAINANT: -

The Complaint is based on the following points / issues in brief: -

(A) CONTRAVENTION OF THE REGISTERED TRADEMARKS AND DOMAIN NAMES OF THE COMPLAINANT (CONTRAVENTION OF PARA (3), (4) AND (6) OF THE IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP) :-

1. The Complainant states that the domain name registered by the Respondent includes the words HOUZZ which is both similar and identical to 'HOUZZ'

trademarks, of which it is the registered owner. A list of such trademarks registered in many countries is provided in Annexure to the Complaint, by the Complainant. Among other registered trademarks, the Complainant also holds Hong Kong Trademark under Registration No.303216528 dated 18.05.2015. In all the Complainant holds about 12 trademarks in US, Canada, European Community, Iceland, Norway, Australia etc.

2. The Complainant submits that in Respondent's domain name is identical to the trading style and trademark in which the Complainant has prior rights. The Complainant already has a domain name www.houzz.com and the consumers and the members of the trade would get confused that the impugned domain name also belongs to the Complainant and is India specific domain name. The disputed domain name incorporates in its entirety the reputed mark HOUZZ of the Complainant.
3. Mere addition of top level country code such as .us does not create a distinct mark capable of overcoming a claim of identical or confusing similarity. The Complainant has cited the decision in SAS Institute Inc. V/s Farzad Bahreini, (Nat. Arb. Forum, August 26, 2001, Taco Bell Co. V/s West Masters Casino, Dart Industries V.s Lokesh Morada, Luxottica Holdings Corp. V/s Lokesh Morade etc. in support of his contention.

(B) NO RIGHT OR LEGITIMATE INTEREST IN DISPUTED DOMAIN NAME (PARA 3(b)(vi)(2) OF INDRP RULES READ WITH PARA 7 :-

1. The Complainant has legitimate interest in the Houzz trademark in several countries. Since the disputed domain name fully incorporates the reputed trademark HOUZZ in which the Complainant has sole and exclusive interests, it is evident that the Respondent cannot have any rights or legitimate interest in the disputed domain name.
2. The Respondent has intentionally parked this domain name 'For Sale' in order to illegally benefit from the goodwill and reputation of the Complainant's trademarks and their prior websites.
3. Houzz is not the Respondent's personal name, neither is the Respondent commonly known by the domain name.
4. Use of a confusingly similar or identical domain name to divert internet users is not use that can be termed a bona fide offering of goods and services. (Zurich American Insurance Company V/s Administrator, Domain, - WIPO case No. D207-0481).
5. There is a strong likelihood that Respondent's use of the domain name will cause third parties to incorrectly: -

(i) Believe that the Complainant has licensed the Trademark HOUZZ to the Respondent or has authorized the Respondent to register the disputed domain name.

(ii) Believe that the Respondent has some connection with the Complainant in terms of a direct nexus or affiliation with the Complainant or has been authorised by the Complainant.

(C) REMEDIES SOUGHT BY THE COMPLAINANT: -

On the background of the Complaint and reasons described therein the Complainant has requested for transfer of the Registrant's domain name to it. It is also requested that heavy cost be imposed. (Through oversight it is stated to impose heavy cost on the Complainant.)

VI] REPLY TO THE COMPLAINT / STATEMENT OF DEFENSE: -

There is no reply / say filed by the Respondent either to the Complaint or to the Notice of Arbitration even within the extended period.

VII] REJOINDERS OF THE PARTIES: -

In view of non filing of any reply / say by the Registrant, no rejoinders were called for.

VIII] MERITS OF THE COMPLAINANT: -

On the basis of the Complaint and other supporting documents filed with the Complaint, this Arbitration panel has made the following observations: -

(a) The Complainant has several registered trademarks, websites and its corporate name, all including the word 'HOUZZ'. All of them have been in use for several years and many of them much before the registration of disputed domain name by the Registrant.

Against this the Registrant does not have any registered trademark, website, or any business mark / identity containing the words or part thereof 'HOUZZ'. He is also not commonly known by these words or any part thereof.

(b) The Registrant has registered domain name but the same is up for sale. The Registrant has not demonstrated any effort to build the website or making use of the same in near future. In fact when one attempts to visit the website the error message is flagged.

(c) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights according to the requirement of para 4(a)(i) of the INDRP Rules

(d) The Registrant / Respondent has no rights or legitimate interests in respect of the domain name as required by Para 4(a)(ii) of the Rules.

(e) Use of disputed domain name by the Registrant / Respondent, if any in future, would lead to creation of confusion in the minds of internet users regarding its ownership. This would also lead to huge losses to the Complainant as due to loss of business and severe damage to its goodwill and creditworthiness.

From all above findings, it can be concluded that the Complainant has proved its case of the entitlement to the disputed domain name.

On the basis of my findings on issues and foregoing discussion I pass the following award: -

01. The Complainant is entitled to the disputed domain name – 'HOUZZ.CO.IN' and hence the same be transferred to the Complainant.
02. The Registrant shall pay to the Complainant all the documented expenses incurred by the Complainant in respect of these arbitration proceedings.

Dated: - 09.02.2016
Place: - Pune


(S.C.INAMDAR)
SOLE ARBITRATOR